

Corporations Subject to Tennessee Franchise and Excise Taxes

Franchise, Excise taxes notice

Public Chapter 1092 amends Tenn. Code Ann. Section 67-4-804 to add a definition of the phrase "doing business" in Tennessee, which is the first test for determining whether a corporation is subject to the franchise, excise taxes. The act provides that a corporation is "doing business" in Tennessee if it purposefully engages in any activity, within Tennessee, with the object of gain, benefit, or advantage. The act specifically provides that the General Assembly intends to subject corporations to the Tennessee tax to the extent permitted by the U.S. Constitution and the Constitution of the State of Tennessee. This provision is identical to the longstanding position of the Department of Revenue.

Public Chapter 1092 also provides that a corporation shall not be considered "doing business" within Tennessee solely because it engages in any one of the six specific activities, which may be briefly described as follows:

- (A) Mere ownership of an interest in a limited partnership.
- (B) Mere ownership of an interest in a board-managed limited liability company.
- (C) Attendance at trade shows for no more than 20 days.

(D) Activities of publishers relating solely to in-state printing by an unaffiliated printer.

(E) Relatively trivial activities relating solely to in-state manufacturing by unaffiliated entities.

(F) Presence of employees for no more than 30 days solely for the purpose of purchasing goods from in-state vendors.

If a corporation engages in more than one of these activities in Tennessee, or engages in one of these activities and some other activity within this state, including activities addressed by U.S. Public Law 86-272 (relating to the solicitation of sales in interstate commerce), that corporation is not necessarily "doing business" in Tennessee; rather all of the facts and circumstances must be considered in applying the general test set out in Public Chapter 1092. The department encourages corporations to request a letter ruling if they are unsure if they are subject to the tax.

Have questions or comments? Please let us know. [Contact us.](#)

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